

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA v. MARIJAN CVJETICANIN Defendants.	Criminal No. 14-274 (MAS) <u>Filed Electronically</u> MOTION FOR NEW TRIAL PURSUANT TO RULE 29 and RULE 33 SUPPLEMENTAL SUBMISSION
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**SUPPLEMENTAL SUBMISSION IN SUPPORT OF DEFENDANT MARIJAN
CVJETICANIN'S MOTION FOR NEW TRIAL**

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Dear Judge Shipp:

Please accept this Supplemental Submission and consider it part of Defendant, Marijan Cvjeticanin's Brief in Support of his Motion for New Trial which was filed on July 13, 2015 (ECF Document 88). Due to the limited time Defendant was given to submit a brief in support of a new trial (Scheduling Order filed on July 9, 2015, required Defendant's brief to be filed by July 13, 2015) (ECF Document 87) and due to the fact that Defendant has been on home confinement since his June 29, 2015, Defendant did not have the opportunity to meet with defense counsel prior to the filing of the July 13, 2015 brief.

Additional Statement of Facts

The Defendant made a conscious, knowing and intelligent decision not to testify on his own behalf based upon his understanding and belief that defense counsel was going to argue that exculpatory evidence in the form of newspaper advertisements was contained in the Government's Exhibits. The Defendant's decision not to testify was further premised upon his good faith and reasonable belief that the deliberating jury would have possessed the exculpatory evidence during jury deliberations rather than *after* its deliberations. The failure of the jury to have been provided the exculpatory Government Exhibits during jury deliberations rendered Defendant's decision not to testify on his own behalf an unconscious, unknowing and unintelligent decision.

Additional Conclusion

A new trial is also required in this case because Defendant's decision not to testify on his own behalf was not a knowing and intelligent decision, and thus a violation of his rights under United States Constitution.

Respectfully submitted,

**LORRAINE GAULI-RUFO, ESQ.
THOMAS AMBROSIO, ESQ.**
Attorneys for Defendant Cvjeticanin

/s/ Lorraine Gauli-Rufo
LORRAINE GAULI-RUFO

/s/ Thomas Ambrosio
THOMAS AMBROSIO

Dated: July 17, 2015